



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/816,492 | 04/01/2004 | Joshua D. Rabinowitz | 00024.03CON | 8599 |
| 37485 | 7590 | 01/11/2006 | EXAMINER | |
| SWANSON & BRATSCHUN, L.L.C 1745 SHEA CENTER DRIVE, SUITE 330 HIGHLANDS RANCH, CO 80129 | | | HAGHIGHATIAN, MINA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1616 | |
| DATE MAILED: 01/11/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

*Supplemental
Notice of Allowability*

| | | |
|--|------------------------------|-------------------|
| | Application No. | Applicant(s) |
| | 10/816,492 | RABINOWITZ ET AL. |
| | Examiner Mina Haghightian | Art Unit 1616 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to Amendments under 37 CFR 1.312(a) filed 11/21/05.
2. The allowed claim(s) is/are 1-3,5-8,13,15,17-25,30-34 and 39-44.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date 12/14/05.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other Response to 1.312 Amendment.

Supplemental Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Barry Swanson on 09/19/05.

The application has been amended as follows:

In claim 33, change "0.2" to --0.1--.

In claim 34 add the term "about" before "0.2" and "3".

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art teaches method of producing appetite suppression, increased energy levels or a positive inotropic effect in patients by administering drugs such as ephedrine and fenfluramine. The novelty in the instant Application lies within the method of making and administering the condensate aerosols of such drugs. The prior art does not teach producing a condensate by vaporizing the drug particles. The said condensates also provide a degradation product of less than 10% for the particles, an MMAD of less than 5 micron and a peak plasma drug concentration that is reached in less than 0.1 hours.

Art Unit: 1616

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mina Haghigatian whose telephone number is 571-272-0615. The examiner can normally be reached on core office hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mina Haghigatian

December 14, 2005



SRIVANI PADMANABHAN
EXAMINER
ADVISORY PATENT EXAMINER

| | | | |
|---|------------------------|---------------------|--|
| Response to Rule 312 Communication | Application No. | Applicant(s) | |
| | 10/816,492 | RABINOWITZ ET AL. | |
| | Examiner | Art Unit | |
| | Mina Haghightian | 1616 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. The amendment filed on 21 November 2005 under 37 CFR 1.312 has been considered, and has been:

- a) entered.
- b) entered as directed to matters of form not affecting the scope of the invention.
- c) disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.
- d) disapproved. See explanation below.
- e) entered in part. See explanation below.

The amendments are entered since they do not alter the scope of the instant claims.



SREENI RABINOWITZ
SUPERVISORY PATENT EXAMINER